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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,003	02/06/2004	Joseph D. Napoli	133107	8991
1218	7590	05/01/2007	EXAMINER	
CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			SMYTH, ANDREW P	
			ART UNIT	PAPER NUMBER
			2809	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/774,003

Applicant(s)

NAPOLI, JOSEPH D.

Examiner

Andrew Smyth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-17 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/06/2004 & 5/24/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

***Allowable Subject Matter***

1. Claims 9-17 allowed.
2. The following is a statement of reasons for the indication of allowable subject matter: an apparatus for testing for substances of interest on surfaces of a card, said apparatus comprising; a housing having a slot formed therein for slidably receiving said card; first and second metallic wipers disposed in said apparatus and in proximity to said slot, said first and second metallic wipers being formed respectively with first and second resiliently deflectable wiper blades biased toward one another, said blades having wiping areas disposed relative to one another for contacting opposite surfaces of said card upon moving said card through said slot; an enclosure selectively movable from an open position where said wipers are exposed for access at said slot and a closed position where said wipers are substantially enclosed; an electric heater for heating said wipers when said enclosure is in said closed position; and a detector communicating with said enclosure for testing for substances of interest collected on said blades of said wipers.

The wiper blade configuration was not found in a prior art search. The search failed to show or suggest the prior use of: wiper blade(s) as an internal component of a card swiping enclosure for the removal of substances from a card for the purpose of said substances desorption for analysis.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 7-8 rejected under 35 U.S.C. 102(b) as being anticipated by Hania et al. (US 5,380,997).

Regarding applicant's claim 1, Hania discloses (figure 2a): apparatus for collecting samples of interest from a card (7a), the apparatus comprising a housing (13) formed with a slot (11) dimensioned for slidably receiving the card (7), at least one wiper (4a) disposed in the housing substantially adjacent the slot for biased engagement against the card slid through the slot and an enclosure (13, 8) for selectively enclosing the wiper.

Regarding applicant's claim 2, Hania discloses (figure 2a): the slot is configured to define a direction of movement (13a, 13b) for sliding the card through the slot (11), the wiper having a wiping blade (4a) with a longitudinal direction aligned substantially orthogonal to the direction of movement.

Regarding applicant's claim 3, Hania discloses (figure 2a): two wipers substantially juxtaposed to one another (13a, the edge of; 4a), each said wiper having a blade for contact with the card, the blades being resiliently deflectable away from one another in response to forces exerted by the card.

Regarding applicant's claim 4, Hania discloses (figure 2a): wiper (3a, 3b) is formed from an electrically conductive material (column2, lines 8-16).

Regarding applicant's claim 7, Hania discloses (figure 2a): connections for applying an electric current to the wiper (9, 10; see also column 2, lines 24-32) for selectively heating the wiper.

Regarding applicant's claim 8, Hania discloses (figure 2a): a sensor for sensing movement of the card through the slot (3a, 3b).

3. Claims18-20 rejected under 35 U.S.C. 102(b) as being anticipated by Mergerle (US 6,610,977).

Regarding applicant's claim 18, Mergerle discloses: .a method for testing for substances of interest, said method comprising: receiving a card from a suspect (column15, lines 59-64; where the "suspect surface" is inclusive of a card); passing the card against a resiliently deflectable metallic wiper (column 16, lines 4-5), such that said wiper removes substances from said card (column 15, lines 59-64); enclosing the wiper in an enclosure;

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heating the wiper in the enclosure sufficiently for desorbing substances removed from said card and onto said wiper; (column 16, lines 1-3);  
placing said wiper in communication with a detector; and  
testing the collected sample for the presence of a substance of interest (column 16, lines 28-34).

Regarding applicant's claim 19, Mergerle discloses: the step of heating comprises heating the wiper to a temperature of approximately 240°C (column 4, lines 62-65)

Regarding applicant's claim 20, Mergerle discloses: opening the enclosure after the testing step (column 12, lines 22-25).

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

3. Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Hania et al. (US 5,380,997).

In regard to applicant's claim 5, Hania et al. discloses all of the elements of claims 4 and 1 that claim 5 depends upon and that the electrically conductive material is metallic (column 2, lines 8-9).

The elements of applicant's claim 5 that Hania et al. lacks are: a foil having a thickness of between about 0.002-0.004 inch.

Since the configuration of the invention is known; adding a thickness measurement is obvious and lacks inventive step.

4. Claim 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Hania et al. (US 5,380,997) and also in light of Williams et al. (US 6,575,553).

In regard to applicant's claim 6, Hania et al. discloses: the elements of claims 4 and 1 that claim 6 depends upon, see above.

The elements of applicant's claim 6 that Hania et al. lacks are: a plurality of spring arms extending from the blade, the spring arms of the wiper being spaced

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sufficiently from one another for reducing thermal mass of the wiper and facilitating deflection

In regard to applicant's claim 6, Williams teaches: plurality of spring arms extending from the blade, the spring arms of the wiper being spaced sufficiently from one another for reducing thermal mass of the wiper and facilitating deflection (figure 7, 148; see also column 11, lines 52-54)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize spring arms to assist in applying pressure upon the blade and to the surface being wiped, facilitating deflection, and also to reduce the mass of the blade, as taught by Williams, to utilize spring arms to assist in applying pressure upon the blade and to the surface being wiped, facilitating deflection, and also to reduce the mass of the blade.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Smyth whose telephone number is 571-270-1746. The examiner can normally be reached on 7:30AM - 5:00PM; Monday thru Friday.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bruce can be reached on 571-272-2487. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A.S.

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DAVID BRUCE  
SUPERVISORY PATENT EXAMINER